

FILED 09 JUL 19 14:41 USDC-ORE

Pro Se 2 (Rev. 12/16) Complaint and Request for Injunction

UNITED STATES DISTRICT COURT

for the

District of Oregon

CV6 Division

Kevin Mark McFarland

) Case No. 0:19-CV-10466-MKC
)
) (to be filled in by the Clerk's Office)

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint.
 If the names of all the plaintiffs cannot fit in the space above,
 please write "see attached" in the space and attach an additional
 page with the full list of names.)

-v-

State of Oregon, County of Lane
 Lane County Circuit Court
 Patricia Perlow, District Attorney
 Deborah Stoll

Defendant(s)

(Write the full name of each defendant who is being sued. If the
 names of all the defendants cannot fit in the space above, please
 write "see attached" in the space and attach an additional page
 with the full list of names.)

COMPLAINT AND REQUEST FOR INJUNCTION

I. The Parties to This Complaint

A. The Plaintiff(s)

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name	<u>Kevin Mark McFarland</u>
Street Address	<u>P.O. Box 234</u>
City and County	<u>Alvadore, Lane</u>
State and Zip Code	<u>Oregon 97409</u>
Telephone Number	<u>541-292-3669</u>
E-mail Address	<u>tekland@yahoo.com</u>

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (*if known*). Attach additional pages if needed.

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Defendant No. 1

Name	State of Oregon, County of Lane Lane County Circuit Court
Job or Title (<i>if known</i>)	
Street Address	125 E. 8th St.
City and County	Eugene, Lane
State and Zip Code	Oregon 97401
Telephone Number	541-682-4261
E-mail Address (<i>if known</i>)	

Defendant No. 2

Name	Deborah Stoll
Job or Title (<i>if known</i>)	Assistant District Attorney
Street Address	125 E. 8th St. Room 400
City and County	Eugene, Lane
State and Zip Code	Oregon 97401
Telephone Number	541-682-4261
E-mail Address (<i>if known</i>)	deborah.stoll@co.lane.or.us

Defendant No. 3

Name	Patricia Perlow Lane County District Attorney
Job or Title (<i>if known</i>)	
Street Address	125 E. 8th St. Room 400
City and County	Eugene, Lane
State and Zip Code	Oregon 97401
Telephone Number	541-682-4261
E-mail Address (<i>if known</i>)	perlow.patricia@co.lane.or.us

Defendant No. 4

Name	
Job or Title (<i>if known</i>)	
Street Address	
City and County	
State and Zip Code	
Telephone Number	
E-mail Address (<i>if known</i>)	

II. Basis for Jurisdiction

Federal courts are courts of limited jurisdiction (limited power). Generally, only two types of cases can be heard in federal court: cases involving a federal question and cases involving diversity of citizenship of the parties. Under 28 U.S.C. § 1331, a case arising under the United States Constitution or federal laws or treaties is a federal question case. Under 28 U.S.C. § 1332, a case in which a citizen of one State sues a citizen of another State or nation and the amount at stake is more than \$75,000 is a diversity of citizenship case. In a diversity of citizenship case, no defendant may be a citizen of the same State as any plaintiff.

What is the basis for federal court jurisdiction? *(check all that apply)*

- Federal question Diversity of citizenship

Fill out the paragraphs in this section that apply to this case.

A. If the Basis for Jurisdiction Is a Federal Question

List the specific federal statutes, federal treaties, and/or provisions of the United States Constitution that are at issue in this case.

Americans with Disabilities Act of 1990 42 U.S.C. § 35.108A

Americans with Disabilities Act of 1990 42 U.S.C. Subpart B § 35.130 - § 35.134 - § 35.152

Americans with Disabilities Act of 1990 42 U.S.C. Subpart E § 35.160

B. If the Basis for Jurisdiction Is Diversity of Citizenship**1. The Plaintiff(s)****a. If the plaintiff is an individual**

The plaintiff, *(name)* _____, is a citizen of the
State of *(name)* _____

b. If the plaintiff is a corporation

The plaintiff, *(name)* _____, is incorporated
under the laws of the State of *(name)* _____,
and has its principal place of business in the State of *(name)* _____

(If more than one plaintiff is named in the complaint, attach an additional page providing the same information for each additional plaintiff.)

2. The Defendant(s)**a. If the defendant is an individual**

The defendant, *(name)* _____, is a citizen of
the State of *(name)* _____ Or is a citizen of
(foreign nation) _____

b. If the defendant is a corporation

The defendant, *(name)* _____, is incorporated under the laws of the State of *(name)* _____, and has its principal place of business in the State of *(name)* _____.
Or is incorporated under the laws of *(foreign nation)* _____, and has its principal place of business in *(name)* _____.

(If more than one defendant is named in the complaint, attach an additional page providing the same information for each additional defendant.)

3. The Amount in Controversy

The amount in controversy—the amount the plaintiff claims the defendant owes or the amount at stake—is more than \$75,000, not counting interest and costs of court, because *(explain)*:

III. Statement of Claim

Write a short and plain statement of the claim. Do not make legal arguments. State as briefly as possible the facts showing that each plaintiff is entitled to the injunction or other relief sought. State how each defendant was involved and what each defendant did that caused the plaintiff harm or violated the plaintiff's rights, including the dates and places of that involvement or conduct. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

A. Where did the events giving rise to your claim(s) occur?
Lane County Circuit Court

B. What date and approximate time did the events giving rise to your claim(s) occur?
April 24, 2019 denied request for evaluation by Oregon State Hospital to determine fitness to proceed.
Aug. 18, 2018 Arraigned on addl charges without understanding their nature
July 24, 2018 denied use of assistive device in hearing to return my truck
May 21, 2018 arraigned without representation
May 19, 2018 requested to be taken to hospital

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- C. What are the facts underlying your claim(s)? (*For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?*)
See Attached:

IV. Irreparable Injury

Explain why monetary damages at a later time would not adequately compensate you for the injuries you sustained, are sustaining, or will sustain as a result of the events described above, or why such compensation could not be measured.

Trial is set to proceed on July 10, 2019. As previously noted by Dr. David Northway, my attorney Rebecca Gouge, and investigator Bill Lioio, my mental condition takes a downward turn as the trial date approaches. Aspergers defense mode renders me unable to function or be aware of my surroundings. If the trial proceeds and I will not be able to aid in my defense, or able to comply with orders of the court endangering my life due to autistic related behaviors.

V. Relief

State briefly and precisely what damages or other relief the plaintiff asks the court to order. Do not make legal arguments. Include any basis for claiming that the wrongs alleged are continuing at the present time. Include the amounts of any actual damages claimed for the acts alleged and the basis for these amounts. Include any punitive or exemplary damages claimed, the amounts, and the reasons you claim you are entitled to actual or punitive money damages.

I request the court order a suspension of the pending trial scheduled for July 10, 2019, until such time as the court may review my claims and order Lane County to comply with Federal Law as it pertains to disability rights and particularly the disabilities of autism and present to the court orders for reasonable accommodation.

Actual damages due to the loss of my vehicle and tools, Research Grant renewal, my reputation as a scientist caused by the Lane County Criminal Justice system failure to comply with federal law are greater than \$700,000. I do not know the extent of Punitive damages as yet.

VI. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 04/25/2019

Signature of Plaintiff

Kevin McFarland

Printed Name of Plaintiff

Kevin Mark McFarland

B. For Attorneys

Date of signing: _____

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Street Address

State and Zip Code

Telephone Number

E-mail Address

Attachment Section III part C of COMPLAINT AND REQUEST FOR INJUNCTION

April 25, 2019

Complainant:

Kevin Mark McFarland

I have Aspergers Syndrome a form of Autism now known as Autism Spectrum Disorder. I have been officially diagnosed by two separate Psychologists, Dr. Pablo Catero at the University of Colorado in 2012 and again in 2018 by Dr. David Northway. I have no criminal history.

I reside in Klamath County Oregon. In May of 2018 I was preparing to initiate experiments on the FarmBot at an Agricultural Research and Experiment Station in Lane County under a research grant in May of 2018 when numerous officers of Lane County Sheriffs Dept. entered through closed gates detained several persons on the site including myself.

I have been charged with stealing my own lawn mower escalated to felony uumv when I would not accept a plea bargain and other lesser charges related to my arrest. I am innocent of the charges leveled by Assistant District Attorney Deborah Stoll, whom I have greatly angered with accusations of misconduct.

I have attempted to defend myself from these false charges and the case now well over a year old continues toward an unfair trial in which I cannot obtain reasonable accommodations nor participate in my defense due to an aspect of my autism called defense mode that effectively prevents me from being aware of my surroundings under certain stresses. I have at times went into a near catatonic state for a few hours or as much as a few days after court appearances and I can only recall vague portions of the events if any at all.

I am in great danger of being unable to comply with orders to appear in court that without accommodations will occur if trial days are too close together to allow my recovery resulting in my re-incarceration an event that was severely traumatic and life threatening due to autism related behaviors.

The Lane County Criminal Justice system, initially ignored requests for accommodations under the Americans with Disabilities Act. In particular requests to use an App for Autistic's to address the court were refused, costing me my vehicle and only mode of transportation to travel the 380 miles round trip for court appearances. The Attorney appointed to me by the court made fun of me and refused my requests for communication methods that I could understand, I was arraigned after a trial date was set and without the understanding of the charges against me.

The Assistant District Attorney has actively resisted requests for Accommodations and in a fitness hearing, fought to deny my claim that I cannot assist in my own defense during the proceeding of a trial that would have resulted in diverting into a community counseling program.

The Lane County Criminal Justice system has unjustly denied me rights under the 4th 5th and 6th amendments and all of the protections in the Americans with Disabilities Act endangering my freedom, my mental health and my very life.